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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/068,910	02/08/2002	Satoru Kawahara	020591	9398

38834 7590 05/16/2005

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1250 CONNECTICUT AVENUE, NW
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WASHINGTON, DC 20036

EXAMINER

PATTERSON, MARC A

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 05/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Advisory Action Before the Filing of an Appeal Brief	Application No. 10/068,910	Applicant(s) KAWAHARA ET AL.	
	Examiner Marc A Patterson	Art Unit 1772	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 April 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: none.
Claim(s) objected to: 1-24.
Claim(s) rejected: 1-24.
Claim(s) withdrawn from consideration: none.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☒ Other: See attached.

ADVISORY ACTION

Applicant's arguments filed April 2, 2005 have been fully considered but have not been found to be persuasive.

1. Applicant argues, on page 9 of the remarks dated April 2, 2005, that even if a person of ordinary skill in the art attempted to apply the teachings of Nakajima et al in the construction of Kameyama, that person would select a protective layer having an appropriate modulus of elasticity as taught in Nakajima, for example by adjusting the triacetylcellulose layer thickness to the preferred values in Nakajima, 70 to 75 microns; the adjusted thicknesses of the other layers, Applicant argues, provide a film having a high flexural rigidity, which results in substantial foam entry.

However, Nakajima et al is used in the previous Action, as stated on page 3 of the previous Action, only for the teaching that it is well – known in the art to adjust the thickness and Young's modulus of an optical film to obtain a desired flexural rigidity. The thicknesses that are used in a particular film to obtain a desired flexural rigidity are therefore not limited by Nakajima et al. Furthermore, the triacetylcellulose layer of Nakajima et al is not limited to a thickness of 70 to 75 microns, and it is unclear why the 'adjusted thicknesses' of the other layers would necessarily be the thicknesses that are stated by Applicant. The term 'foam' also has insufficient antecedent basis, as stated on page 2 of the previous Action, and it remains unclear what process would lead to the entry of foam as an optical film is attached to a glass substrate. The process limitation of attachment is also given little patentable weight.

Applicant also argues, on page 10, that although Nakajima et al recognizes advantages to adjusting film thickness, Nakajima et al does not necessarily suggest increasing flexibility, and recommends a thickness of 70 – 75 microns, and is not appropriate for avoiding foam entry.

However, as stated above, Nakajima et al is used in the previous Action, only for the teaching that it is well – known in the art to adjust the thickness of an optical film to obtain a desired flexural rigidity, and the triacetylcellulose layer of Nakajima et al is not limited to a thickness of 70 to 75 microns. Furthermore, as stated on page 2 of the previous Action, Nakajima et al teach the adjustment of the thickness to obtain a desired flexibility, and therefore teaches the adjustment of thickness to increase or decrease flexibility as desired. The term ‘foam’ also has insufficient antecedent basis as stated above.

Applicant also argues on page 10 that Nakajima et al does not provide any guidance regarding the parameters for adjusting the thickness of an optical element comprising laminated layers.

However, because Nakajima et al teach that it is known in the art to adjust the thickness of an optical film to obtain a desired flexural rigidity, Nakajima et al teach the adjustment of thickness of an optical film having one layer or having more than one layer.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc A Patterson whose telephone number is 571-272-1497. The examiner can normally be reached on Mon - Fri 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Marc Patterson
Marc A. Patterson, PhD.
Examiner
Art Unit 1772

[Signature]
HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772 5/12/05